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DINA TITUS
MEMBER OF CONGRESS
1ST DISTRICT NEVADA

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.

COMMITTEE ON
TRANSPORTATION &
INFRASTRUCTURE

COMMITTEE ON
VETERANS' AFFAIRS

August 8, 2016

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th St. SW
Washington, D.C. 20554

Dear Chairman Wheeler and Commissioners of the FCC:

I write to share my thoughts about the FCC's Further Notice of Proposed Rulemaking (FNPRM) on business data services.

Millions of consumers depend on business data services (BDS) in their daily lives: when they withdraw cash from an ATM machine, visit a major retailer, use their smartphones, or start their workday online. It is an essential service, particularly for rural communities that rely on a broadband connection to support their businesses and stay connected.

As the Commission approaches this rulemaking proceeding, it must strike a balance between ensuring businesses have access to a multitude of carriers and competitive prices for BDS and preserving incentives for continued network investment. The Commission must encourage competition by cable providers, competitive exchange carriers, wireless backhaul providers, and other new entrants whose investments can ultimately limit the places where continued regulation is necessary.

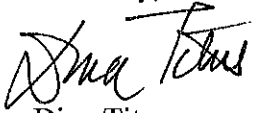
I have concerns, however, that such proposals to change regulation of the BDS market do not accurately recognize the current extent of competition in the business data services market. Nearly 500 companies reported providing business data services across the country in the 2013 data collection. The BDS market has grown exponentially, even in the last several years since the FCC's industry data collection in 2013. Cable companies have invested more in fiber facilities and electronics for delivery of high speed data and voice services and have deployed fiber connections to new locations.

In his peer review of the white paper used as the basis for the proposed regulations, Professor Andrew Sweeting states that "partly because of the limitations of the data available, the results should be interpreted with some caution (as Dr. Rysman himself suggests in his conclusions), as it is possible that he is either under or overestimating the magnitude of market power."

When there is demonstrated market failure, rate regulation can be an important and useful consumer protection tool. In the context of BDS services, however, I do not believe this is necessarily the case. I respectfully request that the Commission not rush into changes to BDS regulation in areas where competition is already working to moderate the market.

I hope that the FCC will consider alternatives that will simultaneously encourage economic development and benefit consumers in my state. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Dina Titus", written in a cursive style.

Dina Titus

Member of Congress



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

October 14, 2016

The Honorable Dina Titus
U.S. House of Representatives
401 Cannon House Office Building
Washington, D.C. 20515

Dear Congresswoman Titus:

Thank you for your letter regarding the Commission's business data services rulemaking proceeding.

Business data services (BDS), historically known as special access services, are critically important in our connected economy and society, including, as you note, in rural communities. Offices, retailers, banks, manufacturers, schools, hospitals, and universities use these dedicated network connections to move large amounts of data. As you note, consumers use them indirectly every time they withdraw cash from an ATM or swipe their credit card at a retail store. And mobile networks depend heavily on the use of BDS for the backhaul of mobile traffic.

Earlier this year we sought broad public comment on reforming and modernizing the existing, fragmented regulatory BDS structure with a new framework. Last week, I circulated to my fellow Commissioners proposed rules to reform the regulatory regime for BDS to promote fairness, competition, and investment in this important marketplace. The circulated Order provides a new framework that strikes a balance between targeted regulation for legacy services, where evidence of market power is strongest, and lighter-touch regulation for packet-based services, where, as you note in your letter, there has been new entry and competition may be emerging.

With respect to your concern regarding the BDS data collection, I share your interest in ensuring an accurate dataset. While some parties have expressed concern about potential shortcomings in the data collected, this collection represents the most robust dataset available to date on the suppliers and purchasers in the BDS industry. The proposed Order is grounded in the comprehensive record of this proceeding, including careful review of the sophisticated economic analyses presented by multiple parties as well as other record evidence, including developments since the 2013 data collection.

I appreciate your interest in this matter. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a long horizontal flourish extending to the left.

Tom Wheeler